

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.7842 OF 2005**

Naushad Aahamed ...Applicant

Versus

Irshad S/o.Maktumsab Belgaumi & Anr. ...Respondents

**AND
CRIMINAL APPLICATION NO.8033 OF 2005**

Naushad Ahamed ...Applicant

Versus

Salim S/o.Maktumsab Belgaumi & Anr. ...Respondents

Shri Harshad E. Palwe for the Applicant in both the Applications.

Shri D.P.Adsule, A.P.P for the State in both the Applications.

**CORAM : A. S. OKA, J.
DATE : DECEMBER 20, 2006.**

P.C.:

1. Heard the Advocate appearing for the Applicant. He states that there is no possibility of amicable settlement.

2. The prayer in these Applications under section 482 of the Code of Criminal Procedure, 1973 is for quashing the process issued on complaints filed by the first Respondent under section 138 of the Negotiable Instruments Act, 1881.

3. The Applicant preferred revision Applications for challenging the orders issuing process. The learned Sessions Judge by separate orders has dismissed the revision Applications.

4. Reliance is placed by the learned Advocate for the Applicant on a prior settlement between the Applicant and the first Respondent in a civil suit. It is submitted that in view of the said settlement, the learned Magistrate ought not to have issued process.

5. I have perused a copy of the settlement placed on record. Prima facie, it appears to me that the settlement has no bearing on merits of the complaint filed by the first Respondent. Averments made in the complaints make out a prima facie case for issuing process under section 138 of the Negotiable Instruments Act, 1881.

6. There is no merit in the Applications and the same are rejected. However, it is made clear that all contentions of the Applicant in the pending complaints are expressly kept open.

JUDGE